Supreme Court, U.S.
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NO. 85-1980

IN THE SUPREME COURT OF THE

UNITED STATES

October Term, 1985

Harold W. Noffsinger &
Juanita M. Noffsinger,

Appellants

v.

Bank of Central Florida, et al.,

Appellees

ON APPEAL FROM THE
UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

JURISDICTIONAL STATEMENT

HAROLD W. NOFFSINGER
and
JUANITA M. NOFFSINGER
Petitioners pro se.
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2nd

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

QUESTION PRESENTED

Were the rights of Harold W. and Juanita M. Noffsinger, as petitioners pro se. violated by the trial Court because they filed their complaint in properia persona as is guaranteed by the 14th amendment to the United States Constitution.

Can a Citizen of the United States be forced by the Courts to accept the indignities of Fraud, Usury, Breach of Contract, Mail and Wire Fraud being heaped upon him with no hope of relief.

Are pro se. complaints so obnoxious to the Courts they are dismissed with out being liberally interpreted and given a hearing on their merits.

Can a Court of law bypass the Constitutional rights of a Citizen who is poor and favorably rule for the rich

who has no defense against his illegal actions.

Can a Bank who is not the Holder in Due Course foreclose on a citizens property after defrauding such citizen, and is a citizen legally required to pay interest on no existant money.

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Cases

Farmers and Miners Bank v. Bluefield Nat'l Bank 11 F 2d 83, 271 US 669

Bowen v. Needles Nat'l Bank, 94 F 925, 36 CCA 553. . . . . .

Nat'l Bank of Commerce v. Atkinson, 55 Fed. Rep. 465 . . . . . .

Howard and Foster Co. v. Nat'l Bank of Union, 133 SC 202, 130 SE 758.

Craig v. Mo. 4 Peters 912 . . . . .

American Express Co. v. Citizens State Bank, 194 NW 430 . . . . . .

Fed. Intermediate Credit Bank, v. L' Herisson, 33 F 2d 841 . . . . . .

Barnsdall Refining Corp. v. Birnamwood Oil Co. 92 F 2d 166 . . . . . .

Whipp v. Iverson, 43 Wis. 2d 166 . . .

Bankers Trust v. Nagler, 229 NYS 2d 142 . . . . . .

Christianson v. Beebe, 91 P 129, 32 Utah 406 . . . . . .

United States v. Neifert White Co. 247 Fed. Supp. 878

Kirkland v. Bailey, 155 SE 2d 701. .

Parsons v. Fox, 179 Ga. 605, 176 SE 642 . . . . . .

Norton Grocery Co. v. Peoples Nat'l Bank, 144 SE 501, 151 Va 195 . . . .

Seligmaa v. Charlottsville Nat'l Bank, 3 Hughes 647 Fed case No. 12,642

Lane v. Bailey, 230 Ky 319, 133 SW 2d 74 . . . . . .

Meromineo River B Co. v. Agustus Spies L & C Co. 147 Wis. 559, 572, 132 NW 1118 . . . . . .

Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis. 550 . . . . . .

See Also, 1 Morse, Banks and Banking, 5th Ed. Sec. 65 . . . . . .
Magee , Banks and Banking, 3rd Ed. Sec. 248 . . . . . .

American Express Co. v. Citizens State Bank, 194 NW 429 . . . . . .

First Nat'l Bank of Tallpoosa v. Monroe, 135 Ga. 614, 69 SE 1123, 32 LRA (NS)f 550 .. . .

Uniform Commercial Code 3-303;1

Leonard v. Springer, 197 Ill. 532, 64 NE 299 . . . . . .

CONSTITUTIONAL PROVISIONS

Fifth Amendment . . . . . .
Seventh Amendment . . . . . .
Nineth Amendment . . . . . .
Fourteenth Amendment .. . . . .

STATUTES

31 USCA 5103 . . . . . .
42 USC 1983 . . . . . .
18 USC 1964 . . . . . .

GROUNDS OF JURISDICTION OF SUPREME COURT

This appeal arizes from an action dismissing appellants valid complaint for Fraud, Usury, Breach of Contract, and Racketeering committed by Bank of Central Florida. The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on

April 21, 1986. A copy is reproduced herein as appendix "A".

A notice of Appeal to the Supreme Court of the United States was timely filed on the 27th day of March, 1986, A copy is reproduced herein as appendix "B"

The jurisdiction of this Court is invoked under the provisions of Title 18 United States Code Sec. 1964, Title 28 United States Code Sec, 1332 and Title 42 United States Code 1983 et seq.

APPLICABLE CONSTITUTIONAL PROVISIONS AND STATUTES

Fifth Amendment to the Constitution reads as follows; in part.

> " nor be deprived of life, liberty, or property, without due process of law."

Section 1 of the Amendment Fourteen to the Constitution of the United States reads as follows ;

" Citizenship--Due process of law--Equal protection.- All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. "

STATEMENT OF THE CASE

On April 25, 1985 Appellants applied for a loan with the Central Bank of Florida, and was assured by its Loan Officer that such loan was approved and agreed to consumate such loan in the amount of Seventeen thousand, two hundred fifty eight dollars and four cents ($17,258.04) in lawful money of the United States at an annual percentage rate of Nine (9%) percent.

The Bank of Central Florida and its loan officer should have known that the verbal statement that they would loan appellants lawful money of the United States at an annual interest rate of Nine (9%) percent was a false representation made recklessly, and with deliberate and intentional disregard for the rights of appellants.

Relying on such false representation appellants were induced into signing a note and security agreement, etc. on the 25th day of April, 1985.

After signing the note and security agreement, the bank of Central Florida and its loan officer failed to loan appellants legal and lawful money of the United States for the full value of the loan, The actual lawful money which the Bank of Central Florida risked for such loan is estimated to

be no more than five (5%) percent of the loans face value, therefore, the bank of Central Florida has charged an interest rate twenty times greater than what was authorized in the contract.

In violating their commitment to lend lawful money of the United States , the bank of Central Florida wrote, and issued a BAD CHECK, In the writing and issuance of such check, Bank of Central Florida deliberately made a loan beyond it customers deposits, and such check was not redeemable in Federal Reserve notes, coinx , or lawfuly money of the United States for its full face value.

See, " Anheuser Busch Brewing Co. v. Emma Mason, 44 Minn. 318, 46 NW 558 "

BY WHAT AUTHORITY

By what authority can Bank of Central Florida create money by lending their credit, or more simply put - writing and passing BAD CHECKS as money,

Nowhere can a law be found which gives Bank of Central Florida the authority to create money by lending its liabilities, nor can a law be found whereunder they have the authority to write and issue bad checks in order to entrap a borrower, therefore, TWO acts of Fraud was committed by Bank of Central Florida in this matter, the first act was when such bank wrote and issued a bad check ensnaring appellants with an illegal debt, the second act was when this bank stamped their own check PAID after crediting appellants account with a book entry they call dollars.

In the book, " I Bet you Thought " published by the Federal Reserve Bank of New York, they write,

> " Commercial Banks create checkbook money whenever they grant a loan, simply by adding deposit dollars to accounts on their books in exchange for the borrowers I.O.U.

Also in the book " I Bet you Thought"

" Money dosent have to. . . be issued by a government, or be in any special form. "

It should be noted here that those who issue and lend privately created forms of money have no claim for relief in a court of law when they ask to be paid with government issued money, Payment in like kind of money under natural equity indicates that a debt created by a loan of privately created money can be paid off with other privately created money, without regard for any special form, since there are no statutory regulations to indicate how private citizens can create money.

The Courts have long held that when a corporation executes a contract beyond the scope of its corporate powers it is void or ultra vires.

" When a contract is once declared ultra vires, the fact that it is

executed does not validate it, nor can it be ratified, so as to make it the basis of suit or action, nor does the doctrine of estoppel apply."
F & P R v. Richmond, 133 SE 888, 144 SE 501, 151 Va. 195.

" Act is ultra vires when corporation is without authority to perform it under any circumstances or for any purpose. By doctrine of ultra vires a contract made by any corporation beyond the scope of its corporate powers is unlawful."
Community Federal Savings and Loan v. Fields, 128 F 2d 705. From Blacks Law Dictionary 5th Edition.

In the establishment of this void and illegal debt, Bank of Central Florida is not the holder in due course on Appellants property and therefore, has no claim for relief, it is the holder in Due Course and not the lender that has a claim for relief against appellants and only the holder in due course has the legal right to foreclose on such property now in possession of appellants.

Appellants herein are entitled to relief under Title 18 United States

Constitution, 1964, Federal Racketeering laws, and for the violation of 18 United States Constitution sections 1341 1343, 1961 and 1963 (Mail Fraud) by using the U.S. Mail more than twice to collect on an illegal debt.

It is certain this Court would not uphold and condone a counterfeiter in his illegal activities, but by the same token, Bank of Central Florida has, and is, using the same identical methods to deprive appellants of property.

In conclusion, and for the Courts benifit we submit part of an informal talk by Sir Josiah Stamp, President of the Bank of England, to a group of history students in the State of Texas in the year 1920.

> " Banking was conceived in iniquity and born in sin. . .Bankers own the earth. Take it away from them but leave them the power to create money, and, with the flick of a pen

> they will create enough money to buy it back again. . . .Take this great power away from them and all great fortunes like mine will disappear, and they ought to disappear, for then this would be a better and happier world to live in. . . . But, if you want to continue to be the slaves of the Bankers, and pay for the cost of your own slavery, then let the Bankers continue to create money and control credit."
> quoted from 'Bankonomics' by Peter Cook.

Appellee, Bank of Central Florida have violated State, Federal, Constitutional and moral laws in the matter now before this Court and appellants move the Court to rule and declare this debt to be ultra vires and reverse the decision of the lower Court.

The issue herein is so substantial in its effect upon the judicial system and the Constitutional rights upon the citizens of the United States as to require plenary consideration, with briefs on its merits for its resolution.

Respectfully submitted

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CERTIFICATE OF SERVICE

I, Harold W. Noffsinger, appellant pro se, hereby certify that, pursuant to Rule 33, Rules of the Supreme Court, I have served true and exact copies of the within appeal upon Joseph A. Frein, Esq. of the Firm of Broad and Cassel, 1051 Winderley Place, Maitland, Florida 32751, and John E. Lawlor, Ass't United States Attorney, P.O. Box 600, Jacksonville, Florida 32201, this 28 day of May, 1986, by U.S. Mail.

All parties required to be served have been served.

Harold W. Noffsinger
Appellant pro se.

Subscribed and sworn to before me, a Notary Public, at large, in and for the State of Florida, this 28th day of May, 1986.

Frederick Bush Jr
Notary Public

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAR 27,1989
BONDED THRU GENERAL INS. UND.

My Commission Expires

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HAROLD W. NEFFSTIGER

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IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

NO. 85-3940
Non-Argument Calendar

HAROLD W. NOFFSINGER,
JUANITA M. NOFFSINGER,

Plaintiffs-Appellants,

versus

BANK OF CENTRAL FLORIDA, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(March 19, 1986)

Before GODBOLD, Chief Judge, HILL and ANDERSON, Circuit Judges.

B Y T H E C O U R T :

The claims asserted in the Complaint are frivolous, and accordingly the judgment of the district court dismissing the case is AFFIRMED.

R.A

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

HAROLD W. HOFFSINGER, &
JUANITA M. HOFFSINGER,

Plaintiffs, Case No. 85-3940

vs.

BANK OF CENTRAL FLORIDA, ET AL.,

Defendants.

_____/

NOTICE OF APPEAL

COMES NOW, Harold W. Hoffsinger and Juanita M. Hoffsinger his wife, and herewith serves notice that an appeal to the United States Supreme Court will be taken in the above entitled cause relative to the adverse ruling by this Court dated March 19, 1986.

Harold W. Hoffsinger

Harold W. Hoffsinger

Juanita M. Hoffsinger

Juanita M. Hoffsinger

APPENDIX B.

CERTIFICATE OF SERVICE

I, HAROLD W. HOFFSINGER, have this 27 day of March, 1986, served a true copy of the within Notice of Appeal upon counsel for defendant Bank of Central Florida, by placing same in correctly addressed envelope with sufficient postage thereon and depositing same in th United States Post Office, Belleview, Florida.

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